UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,849	10/07/2003	Annette Beaulieu	FR920020070US1	5822

23550   7590   09/08/2008
HOFFMAN WARNICK LLC
75 STATE STREET
14TH FLOOR
ALBANY, NY 12207

EXAMINER
ANWARI, MACEEH

ART UNIT	PAPER NUMBER
2144	

NOTIFICATION DATE	DELIVERY MODE
09/08/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOCommunications@hwdpatents.com

	Application No.	Applicant(s)
Office Action Summary	10/680,849	BEAULIEU ET AL.
	Examiner	Art Unit	
	MACEEH ANWARI	2144	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _12 June 2008_.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-7_ is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _1-7_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a) ☐ All   b) ☐ Some * c) ☐ None of:

         1. ☐ Certified copies of the priority documents have been received.

         2. ☐ Certified copies of the priority documents have been received in Application No. _____.

         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

This action is responsive to the amendments filed on 6/12/2008. **Claims 1 & 7**

were amended and **claims 8- 9** were canceled. No other claims have been amended,

canceled, or newly presented. Accordingly, **claims 1- 7** are pending.

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

2.   The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

    1.   Determining the scope and contents of the prior art.
    2.   Ascertaining the differences between the prior art and the claims at issue.
    3.   Resolving the level of ordinary skill in the pertinent art.
    4.   Considering objective evidence present in the application indicating
        obviousness or nonobviousness.

3.   **Claims 1-7** are rejected under 35 U.S.C. 103(a) as being unpatentable over

Skemer U.S. Publication No.: 2001/0044893 A1, and further in view of **Kalavade et al.**

(hereinafter **Kalavade**) U.S. Publication No.: 2003/0051041 A1.

Regarding **claim 1, Skemer** discloses a method executed by a NAS

communication loss detector agent on a computing system, providing robustness

to an accounting function of user sessions established by at least one NAS in an

IP network (Figure 3-4 and Abstract; reads on this limitation by talking about

network access servers), the accounting function being performed on a RADIUS

server storing an ID, IP address and secret code for each of the at least one NAS

and information identifying each established session (Figure 5-6 and Abstract &

Par. 25 & 46; reads on this limitation by making mention of RADIUS servers and

authentication), said method comprising the steps of: identifying for the RADIUS

server, the NAS communication loss detector agent as a RADIUS client of the

RADIUS server (Figure 5-6 and Abstract & Par. 25 & 38; reads on this limitation

by making mention of RADIUS servers and authentication), repeatedly polling

from the NAS communication loss detector agent the at least one NAS and

(Figure 3-4 and Abstract & Par. 56; reads on this limitation by making mention of

periodic polls), if no answer is received from at least one non-responding NAS

after a predetermined period of time and a predetermined number of repeated

pollings, sending from the NAS communication loss detector agent a RADIUS

stop accounting request to the RADIUS server for all sessions established by the

at least one non-responding NAS.

     Skemer, does not appear to explicitly disclose if no answer is received

from at least one non-responding NAS after a predetermined period of time and a

predetermined number of repeated pollings, sending from the NAS

communication loss detector agent a RADIUS stop accounting request to the

RADIUS server for all sessions established by the at least one non-responding

NAS.

However the use of an agent sending an accounting request to the RADIUS server determining the end of a user's session, is well known in the art as is apparent by **Kalavade** (Par. 221- 222 and 414).

Accordingly, it would have been obvious for one of ordinary skill in the art to incorporate the teachings of **Skemer**, with that of **Kalavade** to allow for a more efficient and accurate means of determining accounting information.

Regarding **claim 2**, **Skemer-Kalavade** further discloses wherein the identifying step comprises the step of storing the ID, the IP address and the secret code of the NAS communication loss detector agent ((Figure 5-6 and Abstract & Par. 25; reads on this limitation by making mention of RADIUS servers and authentication).

Regarding **claim 3**, **Skemer-Kalavade** further discloses wherein the polling step comprises the step of waiting for an expiration of a timer which is a first parameter defined during an installation of the NAS communication loss detector agent (Figure 1-6 and Abstract & Par. 38 & 42; reads on this limitation by making mention of time sessions).

Regarding **claim 4**, **Skemer-Kalavade** further discloses wherein the polling step is repeated n times, n being an integer defined at an installation of the NAS communication loss detector agent (Figure 3-4 and Abstract & Par. 56; reads on this limitation by making mention of periodic polls).

Regarding **claim 5**, **Skemer-Kalavade** further discloses wherein the polling step and the sending step further comprise a step of reading a table

owned by the RADIUS server containing one entry per established session and,

for each entry, information to identify the NAS and prepare parameters for the

RADIUS stop accounting request (Figure 3-6 and Abstract & Par. 56 & 38 &42;

reads on this limitation by making mention of periodic polls, authentication, timed

sessions and storing of information).

      Regarding **claim 6**, **Skemer-Kalavade** further discloses wherein the

sending step comprises a preliminary step, after reading the established session

table, of, including as parameters of the RADIUS stop accounting request:

accounting status, accounting session time, a NAS identifier; a session identifier

and an authenticator (Figure 3-6 and Abstract & Par. 56 & 38 &42; reads on this

limitation by making mention of periodic polls, authentication, timed sessions and

storing of information).

      Regarding **claim 7**, **Skemer-Kalavade** further discloses the steps of:

computing the accounting session time by subtracting the session start time read

in the established session table from a current computing system timestamp

(Figure 5-6 and Par. 38 &42 & 50; reads on this limitation by reciting timed

sessions, and time stamping); and, computing the authenticator as a function of

the secret code read with the ID and the IP address stored for the corresponding

NAS (Figure 5-6 and Abstract & Par. 25 & 38; reads on this limitation by making

mention of RADIUS servers and authentication).

Examiner Note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages

**and figures may apply as well. It is respectfully requested from the applicant in
preparing responses, to fully consider the references in its entirety as potentially
teaching of all or part of the claimed invention, as well as the context of the
passage as taught by the prior art or disclosed by the examiner.**

Response to Arguments

4.   Applicant's arguments filed 6/12/2008 have been fully considered but they are

not persuasive. In substance, the applicant argues that **Skemer** fails to disclose polling

from the NAS communication loss detector agent the at least one NAS and, if no

answer is received from at least one non-responding NAS, sending from the NAS

communication loss detector agent a RADIUS stop accounting request to the RADIUS

server for all sessions established by the at least one non-responding NAS. The

Examiner respectfully disagrees. **Skemer**, discloses the periodic polling **(Par. 56; "An**

SNMP management station periodically 'polls' ...statistics.") and furthermore

Kalavade et al. discloses sending from the NAS agent a RADIUS stop accounting

request to the RADIUS server **(Par. 221-222; "RADIUS client sends an Accounting**

Request to the RADIUS server at the beginning and end of user session").

5.   In substance, the applicant further argues, that **Skemer** does not disclose the

sending of a stop accounting request to the RADIUS server for all sessions established

by the at least one non-responding NAS. The examiner has stated in the previous

office action that **Skemer** and further in view of **Kalavade** read on this limitation **(Par.**

221-222; "RADIUS client sends an Accounting Request to the RADIUS server at

the beginning and end of user session").

6.   Applicant has had an opportunity to amend the claimed subject matter, and has

failed to modify the claim language to distinguish over the prior art of record by clarifying

or substantially narrowing the claim language. Thus, Applicant apparently intends that a broad interpretation be given to the claims and the Examiner has adopted such in the present and previous Office action rejections. See In re Prater and Wei, 162 USPQ 541 (CCPA 1969), and MPEP 2111.

7.   Applicant employs broad language, which includes the use of word, and phrases, which have broad meanings in the art. In addition, Applicant has not argued any narrower interpretation of the claim language, nor amended the claims significantly enough to construe a narrower meaning to the limitations. As the claims breadth allows multiple interpretations and meanings, which are broader than Applicant's disclosure, the Examiner is forced to interpret the claim limitations as broadly and as reasonably possible, in determining patentability of the disclosed invention. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir.1993).

8.   Failure for Applicant to significantly narrow definition/scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant intends broad interpretation be given to the claims. The Examiner has interpreted the claims with scope parallel to the Applicant in the response, and reiterates the need for the Applicant to more clearly and distinctly defines the claimed invention.

Conclusion

9.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MACEEH ANWARI whose telephone number is (571)272-7591. The examiner can normally be reached on Monday-Friday 7:30-5:00 PM ES.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on 571-272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M.A.

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2144